

RECEIVED  
FEDERAL ELECTION  
COMMISSION

CLARK HILL

2016 MAY -3 AM 9:35

Charles A. Spies  
T 202.572.8663  
F 202.572.8683  
Email: cspies@clarkhill.com

OFFICE OF GENERAL  
COUNSEL

Clark Hill P.C.  
601 Pennsylvania Avenue NW  
North Building, Suite 1000  
Washington, DC 20004  
T 202.772.0900  
F 202.772.0910

clarkhill.com

May 2, 2016

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463  
VIA FACSIMILE: (202) 219-3923

Re: MUR 2006 - Response to Complaint from New York Jobs Council and Robert Cole.

Dear Mr. Jordan:

We are writing this letter on behalf of our clients, Robert Cole, New York Jobs Council ("NYJC"), and Elizabeth B. White in her official capacity as Treasurer, in response to the Complaint filed by the Campaign for Accountability ("Complainant") alleging Respondents violated the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"), and Federal Election Commission ("Commission") regulation. The Complaint is based on conjecture, speculation, and flawed legal theories. The asserted facts on their face do not support a reason to believe finding in this matter, and the Complaint should be dismissed.

The Complaint alleges that NYJC is "directly or indirectly established, financed, maintained or controlled" by Andrew Heaney, a federal candidate, by accepting contributions from companies allegedly related to him and members of his family. As a result, the Complaint alleges NYJC is subject to the contribution limits and prohibitions of the Act.<sup>1</sup> The Complaint also alleges that NYJC will have coordinated with Heaney's campaign when it "begins to pay for public communications" by virtue of utilizing two common vendors: Jackson-Alvarez Group and In the Field, LLC. The Complainant's accusations are without legal or factual support, and each allegation is addressed in turn below.

<sup>1</sup> Compl. at 8.

May 2, 2016

Page 2

**I. NYJC is an Independent Expenditure-Only Committee that may raise and spend unlimited amounts from corporations and individuals**

The Complaint alleges that NYJC violated the Act by "receiving" certain contributions from "companies related to Mr. Heaney or a family member," and as a result, "NYJC is likely a super PAC 'financed' by a candidate, Mr. Heaney."<sup>2</sup> At the outset, the application of the Commission's regulation at 11 C.F.R. §300.2(c) in a super PAC context, and to NYJC specifically, is constitutionally suspect. This regulation was adopted prior to the Supreme Court's decision in *Citizens United*, which held that, as a matter of law, independent expenditures do not corrupt or give the appearance of *quid pro quo* corruption.<sup>3</sup> Consequently, countless courts have held that contribution limits or source prohibitions placed on individuals and other legal entities who want to contribute to independent expenditure-only committees cannot withstand constitutional scrutiny.<sup>4</sup> Such limits and prohibitions do not guard against *quid pro quo* corruption, because as a matter of law, independent expenditures are non-corrupting.

Therefore, it follows that there can be no compelling argument that would justify prohibiting a federal candidate or a federal candidate's campaign committee from contributing to an independent expenditure entity merely because of their identity as a federal candidate or federal campaign committee. As Justice Scalia made patently clear in his *Citizens United* concurrence:

The [First] Amendment is written in terms of "speech," not speakers. Its text offers no foothold for excluding any category of speaker, from single individuals to partnerships of individuals, to unincorporated associations of individuals, to incorporated associations of individuals... We are therefore simply left with the question whether the speech at issue in this case is "speech" covered by the First Amendment.

*Citizens United*, 558 U.S. at 392-93 (Scalia, J., concurring). Thus, a federal candidate is like any other contributor in the eyes of the Constitution and the Supreme Court and must be permitted to make unlimited contributions to an independent expenditure committee like NYJC.

Nonetheless, even assuming *arguendo* that the regulation applies in this context, three contributions totaling \$20,000 do not meet the "financing" standard under the regulation. To

<sup>2</sup> *Id.*

<sup>3</sup> See *Citizens United v. FEC*, 558 U.S. 310, 357-61 (2010).

<sup>4</sup> See *Texas for Free Enterprise v. Tex. Ethics Comm'n*, 732 F.3d 535, 538 (5th Cir. 2013) (stating "every federal court that has considered the implications of *Citizens United* on independent groups like TFE has been in agreement: There is no difference in principle—at least where the only asserted state interest is in preventing apparent or actual corruption—between banning an organization such as TFE from engaging in advocacy and banning it from seeking funds to engage in that advocacy (or in giving funds to other organizations to allow them to engage in advocacy on its behalf); see also *Fund for Louisiana's Future v. La. Bd. of Ethics*, 2:14-cv-00368-MLCF, slip op. at 1 (E.D. La. May 2, 2014).

CLARK HILL

May 2, 2016

Page 3

determine whether an entity is "financed" by a candidate, the Commission must consider whether the candidate "causes or arranges for funds in a *significant amount or on an ongoing basis* to be provided to the entity."<sup>5</sup> Contributions totaling \$20,000 can hardly be deemed a significant amount, and when considered in light of the total amount NYJC has raised (\$196,000) it is clear NYJC was not "financed" by a candidate for purposes of 11 C.F.R. § 300.2(c).

Even if \$20,000 could somehow be deemed significant, these contributions were not made by a federal candidate or officeholder. The contributions were received in June 2015 and were from entities allegedly related to Heaney and his family. According to his Statement of Candidacy, Heaney became a candidate on August 5, 2015. There is no law, regulation, advisory opinion, or any other precedent, that prohibits an Independent Expenditure-Only Committee from accepting contributions from an individual, or entities affiliated with an individual, who may become a federal candidate at some later date. Therefore, this allegation should be immediately dismissed.

## II. NYJC Has Not Made Prohibited Contributions in The Form Of Coordinated Communications

In June 2015, NYJC purchased research from Jackson-Alvarez Group at fair market value. The research was comprised of publicly available materials, most of which were over 15 years old. Jackson-Alvarez Group did not provide any strategic analysis with respect to the research product and has not provided any additional products or services to NYJC.

Robert Cole, of In the Field Consulting, serves as the general consultant for NYJC. According to the Complaint, Jake Menges, of Crimson Public Affairs ("Crimson"), serves as a consultant to the campaign of Andrew Heaney. Cole and Menges are partners in Crimson with each maintaining a 50% interest. Menges has, in the past, served as an independent contractor to In the Field, but does not have an ownership interest.<sup>6</sup>

To the extent Cole and Menges can be deemed "common vendors" it would be through Crimson. Crimson implemented a written Independent Expenditure Guidelines & Firewall Policy ("Firewall Policy") to prevent the flow of information between Menges and Cole about the "projects, plans, activities, or needs" of the Heaney campaign or NYJC. As required by Commission regulations, the Firewall Policy is a written policy that is designed to ensure that "Cole and any employees, contractors or vendors of ITFC [In the Field Consulting] are not privy to any activity or information and communications of HFC [Heaney for Congress] or CPA [Crimson Public Affairs] on behalf of HFC."<sup>7</sup> Moreover, NYJC has implemented its own written Firewall Policy designed to prevent the flow of information about the "projects, plans, activities, or needs" of the Heaney for Congress to consultants, employees, and vendors of NYJC.<sup>8</sup> Cole has read and signed both Firewall Policies, and has agreed to abide by their terms.

<sup>5</sup> 11 C.F.R. §300.2(c)(viii) (emphasis added).

<sup>6</sup> Menges last performed services for In the Field in June 2015.

<sup>7</sup> See Exhibit A, Crimson Public Affairs, LLC – Independent Expenditure Guidelines & Firewall Policy.

<sup>8</sup> See Exhibit B, NYJC Firewall Agreement.

CLARK HILL

May 2, 2016

Page 4

The FEC uses a three-prong test to determine whether outside advertising is considered independent or coordinated: (1) payment, (2) content, and, (3) conduct. If all three prongs are satisfied, a communication is deemed coordinated with a campaign or party committee. The Complaint alleges NYJC will have violated the "conduct standard" by the use of a common vendor. Specifically, the conduct prong is met if:

The person paying for the communication contracts with or employs a commercial vendor, to create, produce, or distribute the communication and that commercial vendor has provided certain services<sup>9</sup> to the candidate who is clearly identified in the communication, or the candidate's committee, the candidate's opponent, or a political party committee during the previous 120 days; and

- The commercial vendor conveys to the person paying for the communication information about campaign plans, projects, activities, or needs of the clearly identified candidate or political party and that information is material to the creation, production, or distribution of the communication; or
- The commercial vendor conveys information used previously by the commercial vendor in providing services to the candidate clearly identified in the communication, or the candidate's authorized committee, or a political party committee, and that information is material to the creation, production, or distribution of the communication.<sup>10</sup>

Importantly, the conduct standard is not met if the "commercial vendor, former employee, or political committee has established and implemented a firewall" that is in writing and designed to prevent the flow of information between employees and consultants providing services to the political committee paying for the communication and those employees or consultants currently or formerly providing services to the candidate identified in the communication. 11 C.F.R. § 109.21(h).

Jackson-Alvarez sold a research product composed of publicly available information to NYJC at fair market value. Jackson-Alvarez did not provide any strategic analysis with this product, and has not provided consulting services or advised on any independent expenditures paid for by NYJC, or any other services since that time. The Complaint provides no evidence to support its allegation that Jackson-Alvarez conveyed information to NY Jobs about the Heaney campaign's plans, projects, activities, or needs – only that it "strains credulity" that they would not. Complainant must provide more than mere speculation or its own cynical strained credulity to find reason to believe a violation occurred. As such, the conduct standard is not satisfied.

Similarly, the Complainant provides no evidence that any information about the Heaney campaign's plans, projects, activities, or needs was conveyed to Cole and used by NYJC. Both Crimson and NYJC have implemented written firewall agreements that comply with the

<sup>9</sup> FEC regulations provide a list of services that may put a commercial vendor in the position to acquire information about a campaign's plans, projects, activities, or needs. See 11 C.F.R. § 109.21(d)(4).

<sup>10</sup> 11 C.F.R. § 109.21(d)(4).

CLARK HILL

May 2, 2016

Page 5


Commission's regulations. Complainant has provided no evidence that Cole or Menges violated these written firewall policies. Much like Complainant's "strained credulity," Complainant's "strong inference" is not evidence; rather it is pure conjecture. As such, the allegation that NYJC has or will coordinate with the Heaney campaign and therefore make prohibited contributions should be immediately dismissed.

### III. Conclusion

The Commission may find "reason to believe" only if a Complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Federal Election Campaign Act (the "Act"). See 11 C.F.R. § 111.4(a), (d). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. See MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. See *id.*

The Complaint in this matter is based on conjecture and flawed legal theories. As such, we respectfully request that the Complaint be immediately dismissed.

CLARK HILL PLC

  
Charles R. Spies  
Elizabeth B. White

CLARK HILL

1

## Crimson Public Affairs, LLC -- Independent Expenditure Guidelines & Firewall Policy

### Preamble

- (1) Crimson Public Affairs, LLC (hereinafter "CPA") is a political consulting firm organized under Florida Law and located at 224 Datura Street, West Palm Beach, FL 33401. The Directors of the firm are Jake Menges of 224 Datura Street, West Palm Beach, FL 33401 and Rob Cole of 1520 Myron Street, Niskayuna, NY 12309. Mr. Menges and Mr. Cole each maintain a 50% ownership interest in CPA.
- (2) Rob Cole is also the Director of In the Field Consulting (hereinafter "ITFC"); a political consulting firm located at 1520 Myron Street, Niskayuna, NY 12309. Mr. Cole maintains a 100% ownership interest in ITFC.
- (3) Jake Menges has no ownership interest in ITFC, but has served as an independent contractor to ITFC. Mr. Menges last performed paid services to ITFC on 6/21/15.
- (4) CPA has been retained by Heaney for Congress (hereinafter "HFC") to provide political consulting services. HFC is the principal campaign committee of Andrew Heaney, a candidate for the Republican nomination for the public office of U.S. House of Representatives from New York State's 19<sup>th</sup> Congressional District.
- (5) ITFC has been retained by the New York Jobs Council (hereinafter "NYJC") to provide political consulting services. NYJC is a political committee established pursuant to federal law and registered with the Federal Election Commission as a non-connected independent expenditure committee. Non-connected independent expenditure committees are not affiliated with nor under the direction of a particular candidate. ~~Non-connected independent expenditure committees are sometimes referred to as "Super PACs". They may expend funds in support of particular candidates, and acting independently, are not subject to the contribution limits that apply to such candidates.~~ NYJC has indicated on its FEC Statement of Organization (FEC Form 1) that it will be supporting Andrew Heaney's Congressional candidacy.
- (6) In general, a non-connected independent expenditure political committee such as NYJC may spend an unlimited amount of money on communications supporting a candidate that are created and produced independently of said candidate or their political party. If the communication is coordinated with the candidate or their political party, however, then it is deemed an in-kind contribution to the candidate and is subject to contribution limits and prohibitions. Coordinated activity conducted between a candidate and a political committee formed and registered as being independent and unauthorized usually results in large in-kind over contributions and consequent severe civil penalties and possible criminal charges.
- (7) Due to the aforementioned contractual relationships, a firewall must be established within CPA to ensure that Rob Cole and any employees, contractors or vendors of

16044444009

ITFC are not privy to any activity or information and communications of HFC or CPA on behalf of HFC.

- (8) These guidelines will outline and discuss types of conduct that are considered to be coordinated and prohibited and the firewall policy establishes internal operating policies to avoid such coordinated conduct.

II. What Constitutes Prohibited Coordinated Conduct - The 3 Prong Test for Determining a Coordinated Communication (A Test You Want To Fail)

An independent expenditure by must not run afoul of a 3 prong test established to determine whether the creation, production or distribution of a communication financed by the expenditure was coordinated with a candidate thereby rendering the expenditure as an in-kind contribution subject to the candidate's contribution limit. (Note: The inquiry focuses on the conduct surrounding the creation, production or distribution of a ~~specific~~ communication - If you satisfy all 3 prongs, the communication is not independent and becomes a contribution to the subject candidate) The 3 prongs are payment, content and conduct.

- 1) Payment Prong - In order to satisfy the payment prong, a communication supporting a candidate need only be paid for, in whole or in part, by someone other than such candidate, the candidate's authorized committee, a political party committee or an agent of any of the above.

2) Content Prong -

The content prong relates to the subject matter and timing of a communication. Federal law regulates all campaign speech that is "express advocacy" or the "functional equivalent of express advocacy". "Express advocacy" means any communication using phrases such as "vote for", "support", "oppose", "elect", "defeat", etc. accompanied by a clearly identified candidate or any wording that unambiguously advocates the Election or defeat of a clearly identified candidate (See 11 CFR § 100.22). "Functional equivalent of express advocacy" means any communication referencing a clearly identified candidate within 90 days of an Election (primary or general) regardless of the communication's wording and phrasing. Consequently, for federal Elections the content prong will be satisfied if the communication is any one of: (i) "express advocacy", (ii) the "functional equivalent of express advocacy" or (iii) the dissemination, distribution or republication, in whole or in part, of campaign materials prepared by the candidate or their authorized committee.

\*Note - Under most circumstances, a communication will satisfy the Payment and Content prongs of the test. Consequently, the Conduct prong becomes determinative as to whether the communication is independent or coordinated.

3) Conduct Prong -

The conduct prong examines the interactions regarding the creation, production or distribution of a communication between the entity financing the communication

190044464518

and the subject candidate, their authorized committee and their agents. In general under federal regulation, a payment for a communication is "coordinated" if it is made in cooperation, consultation or in concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, a political party committee or any of the foregoing's agents (See 11 CFR 109.21).

Regarding the conduct prong, under federal regulation, the issue becomes whether coordinating conduct occurred in the creation, production or distribution of a communication. A communication will satisfy the prong if it meets any one of five standards regarding conduct between the entity financing the communication and the candidate, the candidate's authorized committee, a political party committee or any of their agents:

- (i) Request or Suggestion -- the communication is created, produced or distributed at the request, suggestion or assent of the candidate, their authorized committee, political party or agents thereof;
- (ii) Material Involvement -- the candidate, their authorized committee, the political party or agents thereof were materially involved in the communication's content, intended audience, means or mode, choice of media outlets, time and frequency or size and duration;
- (iii) Substantial Discussion -- the communication is created, produced or distributed following a substantial discussion regarding the candidate's plans, projects, activities or needs with the candidate, the candidate's opponent, their authorized committees, the political party or agents thereof;
- (iv) Common Vendor -- the independent expenditure committee contracts with a vendor who, within the 120 days prior to their services to the independent expenditure committee, provided any of the following services to the candidate, the candidate's opponent, their authorized committees or a political party: media strategy, ad buying, audience targeting, polling, fundraising, content development, production, voter targeting, selecting personnel or contractors or otherwise providing political or media advice and the vendor conveys to the independent expenditure committee information regarding the candidate's plans, projects, activities or needs or the vendor uses information obtained while working for the candidate that is material to the creation, production or distribution of the independent expenditure committee's communication;
- (v) Former Employee or Independent Contractor -- the independent expenditure committee financing the communication employs or hires a person who had been an employee or independent contractor of the candidate, the candidate's opponent, their authorized committees or a political party during the previous 120 days and that person conveys to the independent expenditure committee information regarding the candidate's plans, projects, activities or needs or the former employee or contractor uses information obtained while working for the candidate that is material to the

10004410410001



creation, production or distribution of the independent expenditure committee's communication;

\*Note -- A safe harbor exists for (ii) through (v) above (not (i) Request or Suggestion) if the information material to the creation, production or distribution of the communication was obtained from a publicly available source.

### III. Violations of the Coordination Prohibitions

Expenditures by an independent expenditure committee that are found to be coordinated with a candidate or their agents will be deemed to be in-kind contributions subject to contribution limits for the subject candidate. This will usually result in large over contributions to the candidate.

Federal Law establishes significant civil and criminal penalties for unlawfully coordinated federal election contributions. Civil penalties will depend on the amounts unlawfully coordinated but can be in the tens and hundreds of thousands of dollars. Unlawful coordination also constitutes a felony punishable by up to five years in prison. (See Title 52, U.S. Code, Section 36109).

### IV. Firewall Policy: Internal Operating Policy and Procedures for Citizens Public Affairs, LLC

The consequences of coordination being severe, CPA has established policies, procedures and physical arrangements designed to manage confidential information that, if shared, could constitute coordination and prevent the inadvertent spread and misuse of such confidential information, or the appearance thereof. These policies, procedures and physical arrangements shall serve to avoid any semblance of coordination between not only Directors Jake Menges and Rob Cole but also to prevent coordinating activity by CPA employees, contractors and vendors.

#### 1) Confidential Information - Policy and Procedures

- a) Information regarding the strategy, plans and communications of HFC is deemed confidential and shall be limited to those directors, employees, contractors and vendors of CPA who "need-to-know" such confidential information in order to execute their duties and obligations to CPA.
- b) Directors, employees, contractors and vendors of CPA must treat any confidential information regarding the strategy, plans or communications of HFC with due care and confidentiality in order to safeguard against improper further transmission of such confidential information. Such confidential information must only be used for the specific purpose or transaction for which it was given and must only be circulated on a strict "need-to-know" basis. When transmitting or conveying such confidential information, the recipient(s) must be clearly informed about the nature of the confidential information and the restriction on its further transmission or conveyance.

5

c) CPA management shall emphasize to need to restrict access to confidential information regarding HFC strategy, plans or communications and shall, amongst other measures, direct information technology employees, contractors and vendors to implement appropriate firewall measures within CPA information technology systems in order to prevent such confidential information from being accessed, transmitted or conveyed beyond those with a "need-to-know" such confidential information. Information technology employees, contractors and vendors shall periodically audit the communications of CPA employees, contractors, and vendors with access to such confidential information to ensure that no improper transmissions or conveyances of such confidential information has occurred. Audit results shall be reported to CPA management and counsel.

d) CPA management shall implement locked office and clean desk policies for directors, employees, contractors and vendors with access to confidential information regarding HFC strategy, plans or communications.

2) Directors, Employees, Contractors and Vendors - Policy and Procedures

a) No director, employee, contractor, or vendor of CPA shall engage in any contact, contact, discourse or correspondence of any form with Rob Cole or any employee, contractor or vendor of ITFC regarding the strategy, plans, projects, activities or needs of HFC or NYIC.

b) All directors, employees, contractors and vendors to CPA must be vigilant to avoid receiving communications that might contain a prohibited coordinating message;

c) All directors, employees, contractors and vendors of CPA shall take all actions practicable in order to prevent or limit contact with Rob Cole and the employees, contractors and vendors of ITFC. This will include limiting contact (including social contact) and blocking emails and texts of Rob Cole and known employees, contractors and vendors of ITFC.

d) No director, employee or contractor of CPA that was formerly an employee or contractor of ITFC may work on creating, producing or distributing CPA communication on behalf of HFC until 120 days has passed since the termination of the employee/contractor's relationship with ITFC.

e) No vendor that was formerly a vendor for ITFC shall be retained by CPA until 120 days has passed since the termination of the vendor's relationship ITFC;

f) All directors, employees, contractors and vendors to CPA shall sign a certification that (i) they have read and understand these "Independent Expenditure Guidelines", (ii) discussed the content with legal counsel, (iii) understand the consequences of non-compliance with the guidelines, (iv) agree to lawfully conduct themselves in accordance with the guidelines for the duration of their contractual relationship with CPA and (v) agree to only retain

1004464521

and work with other employees, contractors and vendors who, in turn, have agreed to conduct themselves in accordance with these guidelines.

3) Violations

- a) In the event that any director, employee, contractor or vendor of CPA has any contact, discourse or correspondence from Rob Cole or an employee, contractor or vendor of ITC that regards a communication to be or being produced by CPA or ITC promoting the Heaney Congressional candidacy, that director, employee, contractor or vendor must immediately contact legal counsel. Such discourse or correspondence will be reviewed to determine if the coordination prohibition has been violated. In the event of a violation, expenditures and activities on behalf of the subject candidate shall immediately cease and the violation shall be reported to the Federal Election Commission;
- b) In the event that an information technology audit reveals the transmission or conveyance of HFC strategy, plans or communications beyond those individuals or entities with a "need-to-know" such confidential information, such audit findings will be reviewed to determine if the coordination prohibition has been violated. In the event of a violation, expenditures and activities on behalf of the subject candidate shall immediately cease and the violation shall be reported to the Federal Election Commission;
- c) Violations of the coordination prohibition or the transmission or conveyance of HFC strategy, plans or communications beyond those individuals or entities with a "need-to-know" such confidential information are grounds for termination of directors, employees, contractors and vendors.

16044644001

**Crimson Public Affairs, LLC  
Affirmation to Comply with  
Independent Expenditure Guidelines  
& Firewall Policy**

I, Robert Cole, residing at 1520 Myron Street, Niskayuna, NY 12099, a director/employee/contractor/vendor to Crimson Public Affairs, LLC, retained for the purpose of Consulting, do hereby acknowledge and affirm that:

- (1) I have read the attached "Independent Expenditure Guidelines & Firewall Policy" and understand their content;
- (2) I have discussed the content with legal counsel;
- (3) I understand the consequences of failing to comply with the guidelines and policy;
- (4) I am currently in compliance and agree to conduct myself in accordance with the guidelines and policy for the duration of my contractual relationship with Crimson Public Affairs, LLC; and
- (5) I agree to only retain and work with other employees, contractors and vendors who, in turn, affirm to conduct themselves in accordance with these guidelines and policy.

Signature

Printed Name: **Robert Cole**  
Company: **In The Field Consulting**  
Title: **CEO**

# CLARK HILL

## MEMORANDUM

TO: New York Jobs Council Employees and Consultants

FROM: Elizabeth B. White

DATE: August 1, 2015

SUBJECT: New York Jobs Council Firewall Policy Concerning Independent Expenditures

New York Jobs Council ("NY JOBS") will be engaged in independent expenditures in the 2016 U.S. House election in NY-19 in support of Andrew Heaney. NY JOBS has the right to engage in these activities under the First Amendment so long as they are conducted independently of Heaney, the Heaney for Congress Committee, Heaney's official campaign committee (the "Campaign"), and agents and consultants for the Campaign. It is important that NY JOBS does not coordinate its activities or discuss the political and communications plans, projects, activities or needs of the Campaign with any individuals working or consulting for the Campaign.

In order to ensure that individuals involved in the planning or production of NY JOBS independent expenditures do not engage in any coordination with the Campaign, NY JOBS has instituted a firewall policy (the "Firewall Policy"). This memorandum explains the Firewall Policy, which is binding on all NY JOBS employees or consultants who may be involved in the planning, strategizing, production, or creation of NY JOBS independent expenditures.

### Firewall Policy

The Firewall Policy is designed to prevent the flow of private information about the Campaign's plans, projects, needs or activities from employees, agents or consultants of the Campaign, to NY JOBS and its agents. Specifically, the Firewall Policy will prevent a request or suggestion or the use or conveyance of material private information about the Campaign that could be used in connection with any NY JOBS independent expenditures. Accordingly, this Firewall Policy is designed to ensure that NY JOBS's independent expenditure activities comply with federal campaign finance laws and regulations. The following policies are hereby instituted:

- All individuals involved in the planning, strategizing, production or creation of NY JOBS independent expenditures are prohibited from discussing any private political, communications or plans, projects, or activities of NY JOBS's independent expenditure program with the Campaign, its employees, agents or consultants.
- No individual involved in the planning, strategizing, production or creation of NY JOBS's independent expenditures may have a discussion or other communication with the Campaign, its employees, agents or consultants about the Campaign's private political and communication strategies, plans, projects, activities or needs.

NEW YORK JOBS COUNCIL  
FIREWALL POLICY MEMORANDUM

PAGE 2

- \* No individual involved in the planning, strategizing, production or creation of NY JOBS independent expenditures may have a discussion or other communication with any agent of a political party committee about the political party committee's private political and communications plans, projects, activities or needs relating to the 2016 U.S. House election in NY-19.
- \* At no time may individuals involved in the planning, strategizing, production or creation of NY JOBS's independent expenditures have discussions with the Campaign, its employees, agents or consultants regarding the content, timing, method or frequency of NY JOBS's independent expenditures.
- \* For at least 120 days following the date of this memorandum, NY JOBS shall not employ or engage any individuals or consultants to produce NY JOBS independent expenditures who have had communications with the Campaign or its agents, prior to the date of this memorandum, about the Campaign's political strategies, plans, projects or needs.

Acknowledgment

I have read NY JOBS's Firewall Policy and agree to abide by its terms:

  
Signature

Date

Robert m cole

Print Name